The above observation must then be construed in the light of the plaintiff's background, and when that is done I have no doubt in my mind that her evidence is not worth a moment's glance. She contended that her late husband died possessed of some wealth. However, she was unable, and from her demeanour in the witness box she was unwilling, to divulge the extent of that wealth although she did give some indication of the property at four places. The best evidence available would be to furnish the petition for probate in respect of her late husband's estate. That was not done. At no time was she in business apart from being a sleeping partner in Maha Syndicate. The question that follows is how did she obtain all those monies which she claimed she loaned to the defendant. After anxious consideration I cannot but come to the inevitable conclusion that she did not lend any money because she had none. I base my conclusions on the following grounds. She contended that the $50,000 loan was made up by adding Exhs. D5, D6 and D7, which make a total of $49,000. Arithmetically, $1,000 was missing, so she said she gave $1,000 in cash to the defendant. In view of my observations on the bank statement of Chop Soo Seng (Exh. P11) and of the probability that a businessman like the defendant who enjoyed greater over-draft facilities would not borrow money from the plaintiff who enjoyed a lesser amount of over-draft facilities, her attempts to justify the $50,000 loan cannot stand. Secondly, the estates and wealth which she claimed she derived from her late husband were but a figment of her own imagination. No evidence was led to substantiate her averment. Thirdly, only ten days separate these three cheques (13th — 23rd January 1961) involving $49,000. Apart from the consideration of over-draft facilities, it is not in line with human conduct for a person to request for a series of loans within a short space of time for so large an amount, and it is also against human nature for a person to grant a series of loans within a short space of time for so large an amount. Such proposition as the plaintiff contended not only strikes the mind with utter amazement but also to the point of incredulity. If it is necessary to decide between the evidence of the defendant and that of the plaintiff, I have no hesitation in accepting that of the defendant. He gave his evidence in a straightforward manner and I consider him to be a truthful witness. On the other hand, the plaintiff was speculative and at times evasive in her answers in cross-examination. The weight and character of her testimony can be gauged by the various wild statements she made in court such as the one that she was helping her son in a petty business; upon being pressed by defence counsel, the "petty business" turned out to be the Maha Syndicate which she admitted as having a capital contribution by her son and herself totalling $1,161,000. How did she raise that large sum of money? She said she mortgaged her Scotland Road house to provide for that amount and with the same source of income she said she had to provide for her children's marriages, their education abroad, and maintaining her house and estates. Would that amount raised on the mortgage, alleged to be $80,000, be sufficient to provide capital for Maha Syndicate? The answer speaks for itself. However, in the next breath she claimed that the $1,161,000 was raised by mortgaging her Scotland Road house and her two other estates in Kuala Lumpur and Gemas which had since been redeemed, and overdrafts. On being asked for how much the estates were mortgaged she said she did not know.

Having reviewed the evidence as a whole, I am satisfied that on the balance of probability as is required to be proved in a case of this nature, the defendant has substantiated his claim that the cheque was given to Ratnavale and that at the time it was given it was tainted with illegality and is therefore void. It is manifest that in the circumstances this court cannot entertain the plaintiff's claim. Here I pause to comment on counsel for the plaintiff's submission that once the defendant and DW.2 have contradicted themselves there must be corroboration to support their evidence. In my view, the the two witnesses have not materially contradicted themselves. No doubt, as I have indicated above, DW.2's evidence must be treated with caution, but after observing his demeanour I accept his evidence. That, coupled with the defendant's evidence and other surrounding circumstances have led me to the conclusion at which I have arrived.

That being the case, it is now on the plaintiff to prove that subsequent to the illegality, value has in good faith been given for the bill. She has failed to do that, her assertion being that she received the said cheque direct from the defendant. In respect of that proposition, I have not the least hesitation in saying that is highly improbable. I therefore dismiss the case with cost

Claim dismissed.

Solicitors: *Dharmananda & Co.; Lim, Lim & Oon.*

OLOFSEN v. GOVERNMENT OF MALAYSIA

[O.C.J. (Ambrose J.) June 25, 1966]

[Singapore — Suit No. 1047 of 1965]

International law — Suit against foreign government — Jurisdiction — Republic of Singapore (Independence) Act, 1965.

Government Proceedings Ordinance, 1965 — Application in Singapore — Modification.

The plaintiff commenced proceedings in Singapore on June 21, 1965, against the Government of Malaysia for false imprisonment. The Government of Malaysia entered appearance on June 25, 1965, and filed a defence on July 6, 1965. On August 9, 1965, Singapore ceased to be a part of Malaysia and became an independent Republic. At the trial no one appeared for the Government of Malaysia but the Solicitor-General of Singapore appeared as *amicus curiae.*

Held: (1) as Malaysia had become a foreign State as from August 9, 1965, the court had no jurisdiction to entertain any action or other proceeding against the Government of Malaysia;

(2) the Government Proceedings Ordinance, 1956*, has to be modified in its application in Singapore in so far as it permitted the Government of Malaysia to be sued in Singapore.

CIVIL SUIT.

K. E. Hilborne for the plaintiff.

Tan Boon Teik (Solicitor-General) as *amicus curiae.*

Ambrose J.: This action was brought by the plaintiff in the High Court in Singapore against the Government of Malaysia to recover damages for false imprisonment at Pearl's Hill Remand Prison, Singapore, from the 7th November, 1964, to the 8th March, 1965.

On the 16th September, 1963, the State of Singapore became part of the Federation of Malaysia; and the judicial power of the Federation of Malaysia was vested by section 13 of the Malaysia Act, 1963, in the Federal Court, and the High Courts in Malaya, Borneo and Singapore and in such inferior courts as may be provided by federal law.

The action commenced on the 21st June, 1965. On that date it was possible for the plaintiff to sue the Government of Malaysia in the High Court in Singapore under the provisions of the Government Proceedings Ordinance, 1956, of Malaya as extended to Singapore by the Modification of Laws (Government Proceedings and Public Authorities Protection) (Extension and Modification) Order, 1965.

The Government of Malaysia entered appearance on the 25th June, 1965, and filed a defence on the 6th July, 1965.

On the 9th August, 1965, Singapore ceased to be a part of Malaysia and became an independent republic.

At the hearing no one appeared for the Government of Malaysia. The Solicitor-General of Singapore appeared as *amicus curiae.*

The question I had to consider was whether it was possible for the plaintiff to continue the proceedings against the Government of Malaysia in the High Court of the Republic of Singapore in view of the fact that Malaysia had become a foreign state, so far as Singapore was concerned, as from the 9th August, 1965. It was conceded by counsel for the plaintiff that the court has no jurisdiction to entertain an action or other proceeding against any foreign state or the head or government of any foreign state: see *Dicey's* Conflict of Laws, 7th edition, page 129. But it was contended that the laws in force in Singapore immediately before the 9th August, 1965, (Singapore Day) continued to have effect according to their tenor. Counsel cited section 7 of the Constitution and Malaysia (Singapore Amendment) Act, 1965, of Malaysia. This reads:—

> "All present laws in force in Singapore immediately before Singapore Day shall continue to have effect according to their tenor and shall be construed as if this Act had not been passed in respect of Singapore subject however to amendment or repeal by the Legislature of Singapore."

It was argued that, because the Government Proceedings Ordinance, 1956, as extended to Singapore by the abovementioned Order of 1965 was in force in Singapore immediately before Singapore Day, it continued to have effect in Singapore as if the Act have not been passed in respect of Singapore. But it has to be pointed out that what is provided by section 7 of the Act is subject however to amendment or repeal by the Legislature of Singapore.

Here I have to refer to the Republic of Singapore Independence Act, 1965, of Singapore. Section 1 of the Act provides that the Act shall be deemed to have come into operation on the 9th August, 1965. Section 13(1) of the Act provides:—

> "Subject to the provisions of this section, all existing laws shall continue in force on and after Singapore Day, but all such laws shall be construed as from Singapore Day with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act and with the independent status of Singapore upon separation from Malaysia."

It seems to me that the Government Proceedings Ordinance, 1965, of Malaya has to be modified in its application in Singapore in so far as it permitted the Government of Malaysia to be sued in Singapore. The reason is that since Singapore Day the Government of Malaysia has become the government of a foreign state, and, as such, has not been and is not subject to the jurisdiction of this court, which since Singapore Day has ceased to be the High Court in Singapore in Malaysia and has become the High Court of the Republic of Singapore. It was submitted by counsel for the plaintiff that this modification was not necessary and that section 13(1) of the Act of Singapore only requires such modifications to be made in construing the Government Proceedings Ordinance, 1956, as may be necessary

* The Ordinance has since been amended by the Government Proceedings (Amendment) Act, 1966 (No. 20) effective from July 8, 1966.

to bring it into conformity with the Republic of Singapore Independence Act, 1965, and with the independent status of Singapore upon separation from Malaysia. I was unable to accede to this submission. In my view, the modification was necessary. If in construing the Ordinance of 1956 I had to bear it mind the independent status of Singapore upon separation from Malaysia, I had to take into consideration the fact that Malaysia had become a foreign state since Singapore Day and apply the well-established principle of private international law which is referred to above.

It was for the above reasons that I dismissed the action.

Action dismissed.

Solicitors: *Hilborne & Co.*

T. v. T.

[A.C.J. (Gill J.) July 4, 1966]

[K.L. — Divorce Suit No. 9 of 1963]

Divorce — Custody of child — Access to child.

In this case the petitioner had been granted a decree *nisi* of divorce and given custody of the child of the marriage. The order of the court also directed that the respondent was to have access to the child twice a week. The petitioner made an application for an order that the respondent be denied access to the child as it was alleged that the respondent had used the visits to the child to undermine the petitioner's authority over the child and make the child disobedient to and resentful of the petitioner.

Held: in all the circumstances of this case and with a view to avoiding any emotional conflict of loyalties and affection in the mind of the child the original order should be varied, so as to allow the respondent access to the child once a month only under circumstances which preclude any contact between the petitioner and the respondent.

Cases referred to:—

(1) *M.* v. *M., The Times,* December 7, 1954; [1954] C.L.Y. 959, C.A.

(2) *Murphy* v. *Murphy, The Times,* May 12, 1956; [1956] C.L.Y. 2558, C.A.

(3) *Stark* v. *Stark* [1910] P. 190, 193.

(4) *Thomasset* v. *Thomasset* [1894] P. 295.

(5) *B.* v. *B.* [1924] P. 176.

(6) *S.* v. *S. & P.* [1962] 2 All E.R. 1, 4, C.A.

DIVORCE SUIT.

Dato' David Marshall (*Ronald Khoo* with him) for the petitioner.

P. J. Mooney for the respondent.

Cur. Adv. Vult.

Gill J.: This is an application by the petitioner in these divorce proceedings for an order that the respondent be denied access to the child of the marriage, C., until further order of this court and that the original order in that behalf be varied accordingly. The original order, which was part of the order dated 10th June, 1963 whereby the petitioner was granted a decree *nisi* and given custody of the child of the marriage, directed that the respondent may have access to the child on the afternoon of Wednesday in each week between the hours of 5.00 p.m. and 7.30 p.m. and on the morning of Sunday in each week between the hours of 9 a.m. and 1 p.m.

The petition for divorce, which was not defended, was found on cruelty and adultery by the respondent with numerous women over a certain period. They were allegations that the respondent had a perverse and obscene sense of sex, and evidence was produced at the hearing of the petition that he had brought into the matrimonial home diverse indecent pornographic and obscene pictures and books. I mention all these facts because reference was made to them during the hearing of the present application in an attempt to show that the respondent should not be allowed access to the child.

The present application is supported by a lengthy affidavit of the petitioner (Enclosure 44) in which she relates numerous incidents and scenes which are alleged to have been created by the respondent in the presence of the child on his visits to the petitioner's house to see the child. The petitioner alleges that the incidents and scenes were deliberately engineered by the respondent and that they were calculated to undermine her authority over the child and make the child disobedient to and resentful of her. The last of such incidents took place on 27th June, 1965 when the respondent is alleged to have created a scene in front of C. when he came to take her out and in the course of which he openly accused the petitioner of damaging C.'s reputation by having a man sleeping in the house.

The respondent has filed an equally lengthy affidavit (Enclosure 50) in which he has either sought to deny or to explain each of the incidents set out in the petitioner's affidavit. He has, however, not denied the incident which took place on the 27th June, 1965, for which he sent a letter of apology, although he has said that he was concerned only that C. should not be involved in any scandal concerning her mother. It was after this incident of 27th June, 1965 that the petitioner refused to allow the respondent access to the child.

A few other affidavits have been filed in connection with this application, and numerous letters which passed between the parties or their solicitors are put in evidence, but they do not help to carry the matter any further. The petitioner's case is that the respondent has abused the privilege of being allowed to see C. twice a week under an order which was made with her